

From: Branning, Amy  
Sent: Tuesday, September 18, 2018 02:59 PM  
To: Mia, Marcia  
Subject: RE: UEO Kensington Site Visit Follow Up

## Ex. 5 Attorney Client (AC)

Amy Huang Branning

EPA Office of General Counsel

phone: (202) 564-1744

fax: (202) 564-5603 or (202) 564-0070

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From: Mia, Marcia  
Sent: Tuesday, September 18, 2018 10:15 AM  
To: Branning, Amy <Branning.Amy@epa.gov>  
Subject: FW: UEO Kensington Site Visit Follow Up

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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From: Marsh, Karen

Sent: Wednesday, September 12, 2018 5:04 PM

To: Sullivan, Tim <Sullivan.Tim@epa.gov>

Cc: Ostrand, Laurie <Ostrand.Laurie@epa.gov>; Wilwerding, Joseph <Wilwerding.Joseph@epa.gov>; Loukeris, Constantinos <loukeris.constantinos@epa.gov>; Portmess, Jessica <Portmess.Jessica@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

Tim,

## Ex. 5 Attorney Client (AC)

Specifically, NSPS GGG, GGGa, and KKK all have the following language:

NSPS Subpart GGG

§60.592 Standards.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§60.482-1 to 60.482-10 as soon as practicable, but no later than 180 days after initial startup.

NSPS Subpart GGGa

§60.592a Standards.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§60.482-1a to 60.482-10a as soon as practicable, but no later than 180 days after initial startup.

NSPS Subpart KKK

§60.632 Standards.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§60.482-1 (a), (b), and (d) and 60.482-2 through 60.482-10, except as provided in §60.633, as soon as practicable, but no later than 180 days after initial startup.

Additionally, in the Response to Comments for NSPS KKK we stated "The regulation specifies that the plant be in compliance with the standards within 180 days of initial startup..." (See attached on page 60/122).

## Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

Thanks,

Karen

\*\*\*\*\*

Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov

From: Marsh, Karen

Sent: Tuesday, September 11, 2018 3:16 PM

To: Sullivan, Tim <Sullivan.Tim@epa.gov>

Cc: Ostrand, Laurie <Ostrand.Laurie@epa.gov>; Wilwerding, Joseph  
<Wilwerding.Joseph@epa.gov>; Loukeris, Constantinos <loukeris.constantinos@epa.gov>;  
Portmess, Jessica <Portmess.Jessica@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

Hi Tim,

I'm making notifications this afternoon for 0000a but I do have a lot of questions related to this. [REDACTED]

language in 60.482-1(a) and 60.482-1a(a).

"Each owner or operator subject to the provisions of this subpart shall demonstrate compliance with the requirements of §§60.482-1a through 60-482-10a or §60.480a(e) for all equipment within 180 days of initial startup."

# Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

These aren't my only thoughts but are the only ones I have time to articulate right now.

Karen

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Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov

From: Sullivan, Tim

Sent: Tuesday, September 11, 2018 1:38 PM

To: Marsh, Karen <Marsh.Karen@epa.gov>

Cc: Ostrand, Laurie <Ostrand.Laurie@epa.gov>; Wilwerding, Joseph <Wilwerding.Joseph@epa.gov>; Loukeris, Constantinos <loukeris.constantinos@epa.gov>; Portmess, Jessica <Portmess.Jessica@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

Hi, Karen.

Thank you for your response -

Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

In the 2007 Federal Register Notice promulgating the final Subpart VV amendments and the final Subpart VVa standards, the Agency responded to a comment about the initial monitoring of pumps and valves (see 72 Fed. Reg. 64860, 64869-70 (Nov. 16, 2007)). I have copied this comment and response below

Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

In addition, the Federal Register notice for final VV amendments and new VVa standards indicated that the Agency was providing operational flexibility for a new valve placed into service during a skip period in that the operator could either monitor the new valve on a monthly schedule and establish a new skip period for that valve, or the operator could treat that new valve as a leaker and then monitor it during the next skip period or within 90 days, whichever came first.

Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

Thanks -

Tim

72 Fed. Reg. 64860, 64869-70 (Nov. 16, 2007) (my emphases added)

1. Initial Monitoring of Pumps and  
Valves

Comment: Numerous commenters objected to the proposed clarifications for the initial monitoring of pumps and valves that are installed after the startup of the process unit. Several commenters stated that the proposed provisions are significant new requirements and cannot be finalized without demonstrating that they represent BDT and giving the public a chance to comment on the supporting analyses. Two commenters indicated that they are unaware of any SOCFI facilities that routinely monitor new pumps and valves within 1 month of startup, and the supporting documentation for the proposal contains no data from SOCFI sources. Several commenters requested that EPA allow at least 90 or 180 days because complying within 1 month would be burdensome, particularly for

facilities that use third party contracting for monitoring; 1 month is not enough time to integrate new equipment into the monitoring program; 40 CFR 60.8 of the General Provisions provides 180 days for performance tests; and EPA has not explicitly stated how monitoring within 1 month will reduce emissions.

Two commenters noted that EPA's justification of the requirement for valves is that it is needed to ensure that the valve does not leak until its first quarterly or annual monitoring, but no data were presented to show such leakage occurs or is a problem. The commenters also requested that when establishing the final requirement for initial monitoring of pumps and valves, the timeframe be given in days, not months. In contrast with the above comments, three commenters supported the proposed language or more stringent requirements. One of these commenters recommended monitoring new pumps within 1 month after installation to minimize the time period for potential leaks. A second commenter recommended that monitoring be

required even sooner after installation.

This commenter also questioned why a clarification of the requirements for pumps was needed because the preamble to the proposed amendments did not explain how industry currently handles new pumps and why that practice is a problem. This commenter also objected to the second sentence in 40 CFR 60.482-7(a)(2) because it means valves added to a process would not have to be monitored for 2 consecutive months before implementing skip monitoring; which is less stringent than the requirements for valves in an entirely new process.

Response: The language pertaining to the initial monitoring of new pumps and valves was added to the final amendments and new standards to clarify how new equipment should be handled in the existing monitoring schedule, but these are not new requirements. Under the current rule, pumps are to be monitored monthly whether they are newly installed or installed prior to the process unit becoming an affected source (40 CFR

60.482-2(a)(1)). It is unclear to us how a facility is complying with the requirements for pumps if they are not being monitored monthly. Also under the current rule, all new valves are to be monitored monthly (i.e., base period] until two consecutive monthly readings are found below the applicable leak definition, at which point the valve may be monitored quarterly until a subsequent leak is found (40 CFR 60.482-7(a)). Finding of a subsequent leak reverts the monitoring back to monthly until two consecutive monthly readings below the applicable leak definition is reestablished. The current rule also has an alternative standard for valves at 40 CFR 60.483-2 which allows for longer "skip" periods based on continued performance. Again, we are uncertain that a facility is complying with the requirements for these valves if they are not monitoring new valves within the first month of operation. However, to provide operational flexibility, we have decided to add an option for newly installed valves in the final amendments and new standards. If

a new valve is placed into service during a skip period, the source has the option to either monitor the valve on the monthly schedule and establish the skip period for that valve, or count the valve as a leaker in the percent leaking calculation. If the result of the percent leaking calculation remains below 2.0 percent with the new valve counted as a leaker, the owner or operator must monitor the new valve by the next scheduled skip period or within 90 days, whichever comes first. We have stated the timeframe for these requirements in days instead of months in the final amendments and new standards (30 days for pumps and either 30 or 90 days for valves, depending on whether the owner or operator is complying with the skip monitoring option).

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Timothy J. Sullivan  
Air Enforcement Division  
Office of Civil Enforcement  
  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1595 Wynkoop Street (MC 8MSU)  
Denver, Colorado 80202

Phone: 303.312.6196 | Email: sullivan.tim@epa.gov

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<http://www.epa.gov/compliance/complaints/index.html>

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From: Marsh, Karen  
Sent: Tuesday, September 11, 2018 9:00 AM  
To: Sullivan, Tim <Sullivan.Tim@epa.gov>  
Subject: RE: UEO Kensington Site Visit Follow Up

Hi Tim,

Apologies for not getting back to you yesterday. Ex. 5 Attorney Client (AC)  
Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

Karen

\*\*\*\*\*

Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov

From: Sullivan, Tim  
Sent: Monday, September 10, 2018 7:06 PM  
To: Marsh, Karen <Marsh.Karen@epa.gov>  
Cc: Sullivan, Tim <Sullivan.Tim@epa.gov>  
Subject: RE: UEO Kensington Site Visit Follow Up

Hi, Karen.

I write to follow up on my voicemail from earlier today. Can you please give me a call

**Ex. 5 Attorney Client (AC)**

**Ex. 5 Attorney Client (AC)**

Thanks -

Tim

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Timothy J. Sullivan  
Air Enforcement Division  
Office of Civil Enforcement  
  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1595 Wynkoop Street (MC 8MSU)  
Denver, Colorado 80202  
  
Phone: 303.312.6196 | Email: [sullivan.tim@epa.gov](mailto:sullivan.tim@epa.gov)

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From: Lischinsky, Robert  
Sent: Monday, September 10, 2018 11:13 AM  
To: Chapman, Apple <Chapman.Apple@epa.gov>  
Cc: Mia, Marcia <Mia.Marcia@epa.gov>  
Subject: FW: UEO Kensington Site Visit Follow Up

FYI...As you know, Marcia is out this week.

From: Marsh, Karen  
Sent: Friday, September 07, 2018 3:48 PM  
To: Mia, Marcia <Mia.Marcia@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>  
Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>  
Subject: RE: UEO Kensington Site Visit Follow Up

Marcia,

I've not been able to fully focus on this like I hoped today. I did want to let you know I spoke with Steve Fruh about this today and

Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

Thanks,

Karen

\*\*\*\*\*

Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov

From: Mia, Marcia  
Sent: Thursday, September 06, 2018 4:06 PM  
To: Marsh, Karen <Marsh.Karen@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>

Cc: Lischinsky, Robert <Lischinsky.Robert@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

Wonderful news.

I am out after tomorrow. Would you pls cc Rob Lischinsky in my absence. Thanks.

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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From: Marsh, Karen

Sent: Thursday, September 06, 2018 3:05 PM

To: Mia, Marcia <Mia.Marcia@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

Thanks Marcia. I will get something over tomorrow on this if possible.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

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Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov

From: Mia, Marcia

Sent: Wednesday, September 05, 2018 5:31 PM

To: Marsh, Karen <Marsh.Karen@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

## **Ex. 5 Attorney Client (AC)**

# **Ex. 5 Attorney Client (AC)**

# **Ex. 5 Attorney Client (AC)**

**Ex. 5 Attorney Client (AC)** (40 CFR 60.482-7(a)).

72 Fed. Reg. 64860, 64870 (Nov. 16, 2007). Additionally, in the 2006 notice proposing revisions to

Subpart VV, the EPA states, "We are proposing to add 40 CFR § 60.482-7(a)(2) to specify that a new

valve must be monitored for the first time within 1 month after installation to ensure that the valve has

been properly installed . . . . The proposed amendments are consistent with the requirement to monitor

valves monthly within a month after a process becomes subject to subpart VV." 71 Fed. Reg. 65302,

65307 (Nov. 7, 2006). The Region 4 guidance merely restates the EPA's reasonable interpretation of the

rules governing the timing of initial valve monitoring. As stated in the Region 4 letter, § 60.482-1a(a)

does not provide a grace period during which a facility is exempt from the work practice standards of

Subpart VVa and the requirement to conduct monthly monitoring.<sup>3</sup>

## Ex. 5 Attorney Client (AC)

**Ex. 5 Attorney Client (AC)** Subparts VV and VVa require an owner/operator to "demonstrate compliance"

with the applicable requirements "within 180 days of initial startup." 40 C.F.R. §§ 482-1(a), 482-1a(a).

The regulations go on to state that compliance will be "determined by review of records and reports,

review of performance test results, and inspection." Id. §§ 60.482-1(b), 60.482-1a(b).

**Ex. 5 Attorney Client (AC)**

# Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

# Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

Subpart VV and VVa: "Each owner or operator subject to the provisions of this subpart shall

demonstrate compliance with the requirements of [applicable regulatory provisions] for all equipment within 180 days of initial

startup," with the language in Subpart GGGa: "Each owner or operator subject to the provisions of this subpart shall comply

with the requirements of [applicable regulatory provisions] as soon as practicable, but no later than 180 days after initial

startup." These Subpart VVa and GGGa provisions were promulgated in the same rulemaking. 72 Fed. Reg. at 64885, 64896.

# Ex. 5 Attorney Client (AC)

## Ex. 5 Attorney Client (AC)

in the final rule adopting subpart vva and

amending Subpart VV, the EPA stated:

The language pertaining to the initial monitoring of new pumps and valves was added to the final amendments and new standards to clarify how new equipment should be handled in the existing monitoring schedule, but these are not new requirements. Under the current rule [Subpart VV], pumps are to be monitored monthly whether they are newly installed or installed prior to the process unit becoming an affected source (40 CFR

60.482-2(a)(1)).

72 Fed. Reg. at 64870.

Additionally, in the 2006 notice proposing Subpart VVa requirements and revisions to Subpart VV, the

EPA stated:

We are proposing several clarifications to the standards for pumps in light liquid service

(40 CFR 60.482-2). The current provisions are unclear regarding when a new pump on an affected process unit must be monitored for the first time, especially if the new pump is added to the process unit between monitoring cycles. We are proposing to revise 40 CFR 60.482-2(a)(1) to specify that a new pump must be monitored for the first time during the next regularly scheduled monitoring cycle for existing pumps.

71 Fed. Reg. at 65307.

Marcia B Mia

Air Branch

Office of Compliance

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U.S. Environmental Protection Agency

202-564-7042

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From: Marsh, Karen

Sent: Wednesday, September 05, 2018 3:47 PM

To: Mia, Marcia <Mia.Marcia@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

**Ex. 5 Attorney Client (AC)**

I should have time tomorrow to pull this together.

\*\*\*\*\*

Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov

From: Mia, Marcia

Sent: Wednesday, September 05, 2018 3:46 PM

To: Marsh, Karen <Marsh.Karen@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

Hi Karen, we are starting to put our briefing together.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

Have you had time to pull your records together and begin annotating the draft? Timeframe? Thanks.

Marcia B Mia

Air Branch

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202-564-7042

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From: Marsh, Karen

Sent: Tuesday, September 04, 2018 11:21 AM

To: Mia, Marcia <Mia.Marcia@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>

Subject: RE: UEO Kensington Site Visit Follow Up

**Ex. 5 Attorney Client (AC)**

# Ex. 5 Attorney Client (AC)

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Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov

From: Mia, Marcia

Sent: Tuesday, September 04, 2018 11:00 AM

To: Marsh, Karen <Marsh.Karen@epa.gov>; Branning, Amy <Branning.Amy@epa.gov>

Subject: FW: UEO Kensington Site Visit Follow Up

Importance: High

Hi folks,

# Ex. 5 Attorney Client (AC)

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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material. Do not release this message without the appropriate review. If you are not the intended recipient, kindly advise and delete this message/attachments.

From: Chapman, Apple  
Sent: Tuesday, September 04, 2018 9:19 AM  
To: Mia, Marcia <Mia.Marcia@epa.gov>  
Cc: Fried, Gregory <Fried.Gregory@epa.gov>  
Subject: FW: UEO Kensington Site Visit Follow Up

Marcia,

**Ex. 5 Attorney Client (AC)**

I know you have looked into this. Is there anything already written we can use to reply?

Ms. Apple Chapman |Deputy Director, Air Enforcement Division | U.S. Environmental Protection Agency

1200 Pennsylvania Ave. NW, Washington DC, 20004 |202-564-5666 (office)|202-841-6076 (mobile)|

From: Kelley, Rosemarie  
Sent: Tuesday, September 04, 2018 9:13 AM  
To: Chapman, Apple <Chapman.Apple@epa.gov>; Fried, Gregory <Fried.Gregory@epa.gov>  
Cc: Brooks, Phillip <Brooks.Phillip@epa.gov>  
Subject: FW: UEO Kensington Site Visit Follow Up

Rosemarie

From: Bodine, Susan  
Sent: Tuesday, September 04, 2018 8:56 AM  
To: Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Brooks, Phillip <Brooks.Phillip@epa.gov>  
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>; Branning, Hannah <Branning.Hannah@epa.gov>  
Subject: FW: UEO Kensington Site Visit Follow Up

**Ex. 5 Attorney Client (AC)**

From: Stepp, Cathy

Sent: Tuesday, September 4, 2018 8:51 AM

To: Bodine, Susan <bodine.susan@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>

Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>; Thiede, Kurt <thiede.kurt@epa.gov>; Payne, James <payne.james@epa.gov>

Subject: Fwd: UEO Kensington Site Visit Follow Up

Good morning Bill and Susan! I am forwarding this to you both to look for some guidance. Is it possible for me to hear something from you both sometime next week on this? This is a common concern I am hearing in the region... Thanks so much!

Sent from my iPhone

Begin forwarded message:

From: Jim Roberts <j.roberts@momentummidstream.com>

Date: August 31, 2018 at 12:10:03 PM CDT

To: "Stepp.cathy@Epa.gov" <Stepp.cathy@Epa.gov>

Cc: "Thiede.kurt@Epa.gov" <Thiede.kurt@Epa.gov>, "Craig.Butler@epa.ohio.gov" <Craig.Butler@epa.ohio.gov>, "Bob.Hodanbosi@epa.state.oh.us" <Bob.Hodanbosi@epa.state.oh.us>, Mark Hay <m.hay@momentummidstream.com>, Christopher Bender <c.bender@momentummidstream.com>

Subject: UEO Kensington Site Visit Follow Up

Hello Cathy:

It was surely a pleasure meeting you on August 23 at our Kensington Plant and we very much appreciate your interest in our industry and also appreciated you taking the time to discuss some of our concerns. Attached is a letter (hard copy to follow via mail) that will hopefully illustrate the concern we have with one specific finding of violation (FOV) allegation from Region V EPA for our Harrison Hub Plant.

We hope to see you again soon as you are always welcome to visit our other plants and facilities. We would especially like to show you around the Harrison Hub Plant as it is by far our largest facility.

Please do not hesitate to contact me if you or your staff would like to discuss the attached letter further and thanks again for listening.

Sincerely,

Jim Roberts

VP Environmental, Health, and Safety

600 Travis, Suite 5600

Houston, TX 77002

O: 713-243-3039

F: 713-783-3035

C: 970-769-1955

j.roberts@momentummidstream.com